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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,763	04/16/2004	Jefferson L. Patrick		1213

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EXAMINER

OLSON, MARGARET LINNEA

ART UNIT	PAPER NUMBER
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3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/826,763

Applicant(s)

PATRICK, JEFFERSON L.

Examiner

Margaret L. Olson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/16/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: extra spaces have been added or spaces are missing in the specification in numerous places, including lines 4 and 5 of page 5. Applicant is requested to review the specification and correct the spacing errors.

Appropriate correction is required.

Claim Objections

2. Claim 7 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. Both claim 7 and claim 5 have the exact same text and depend from claim 4.

3. Claims 1, 4, 5, and 7 are objected to because of the following informalities: extra spaces have been added or spaces are missing.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Toivola (US 6,162,052). Toivola discloses an accessory rack for transporting small boats on a transporting vehicle with front and rear platform sites. The rack has front and rear assemblies (figure 1) with a bottom member 30 connectable to a platform site, upright posts 40 with a top and bottom end, a boat receiving cross member 50/60 connected to the top of the upright posts, and an elongated upper beam member 20 attached in between the ends of the cross members at a central location thereof.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toivola (US 6,162,052) in view of Young (US 5,458,389). Toivola discloses that the rack's posts and members are made of rectangular material. Toivola does not disclose that the rack's posts and members are made of metal. Young teaches that it is well known in the art to make carrier racks for vehicles of rectangular metal such as steel (column 3, lines 2-5). It would have been obvious to one of ordinary skill in the art at the time of invention to make the posts and members of the rack of Toivola from rectangular

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metal, since metal is a strong and durable material suitable for this application, and it is well known in the art to make carrier racks of metal.

With respect to claim 8, Toivola discloses an accessory rack for transporting a small boat on an ATV. The rack has front and rear assemblies mounted on front and rear platform sites (figure 1) with a bottom member 30 connectable to a platform site, upright posts 40 with a top and bottom end, a boat receiving cross member 50/60 connected to the top of the upright posts, and an elongated upper beam member 20 attached in between the ends of the cross members at a middle portion. Toivola does not have overlapping vertical posts with vertically spaced holes allowing connecting bolts to secure the upright posts at different heights. Young discloses a carrier rack for a vehicle with an upright post 14 with overlapping tubing sections 30,32 that have a series of vertically spaced-apart holes 44/56 for inserting a connecting bolt 34 to position the upright posts at different heights (column 3, lines 18-30). It would have been obvious to one of ordinary skill in the art at the time of invention to form the upright posts 40 of overlapping members with means to secure them together in order to adjust the height of the carrier rack for different loads and terrain.

8. Claims 3, 4, 5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toivola (US 6,162,052) in view of Young (US 5,458,389) as applied to claim 2 above, and further in view of Vieira et al. (US 5,560,666). Toivola as modified above does not disclose upturned arms at each end of the cross member. Vieira et al. teach upturned arms on both cross members of a vehicle accessory rack, labeled on one cross member at 62 and 60 (figure 1). It would have been obvious to one of ordinary

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skill in the art at the time of invention to include upturned arms on the cross members of Toivola in order to prevent the load from sliding (Vieria et al.; column 5, lines 30-32).

With respect to claim 4, Toivola, as modified above, does not have overlapping vertical posts with vertically spaced holes allowing connecting bolts to secure the upright posts at different heights. Young teaches a carrier rack for a vehicle with an upright post 14 with overlapping tubing sections 30,32 that have a series of vertically spaced-apart holes 44/56 for inserting a connecting bolt 34 to position the upright posts at different heights (column 3, lines 18-30). It would have been obvious to one of ordinary skill in the art at the time of invention to form the upright posts 40 disclosed by Toivola of overlapping members with means to secure them together in order to adjust the height of the carrier rack for different loads and terrain.

With respect to claim 5, the primary reference Toivola discloses that the transporting vehicle is an ATV.

With respect to claim 7, the primary reference Toivola discloses that the transporting vehicle is an ATV.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toivola (US 6,162,052) in view of Vieira et al. (US 5,560,666) and Young (US 5,458,389), as applied to claim 5 above, and further in view of Muzzi et al. (US 5,662,451). Toivola, as modified above, does not disclose U-bolts connecting the structure to the platforms of a vehicle. Muzzi et al. teaches a carrying rack structure with a vertical member attached to the front and back rack of an ATV (figure 1) with U-bolts. It would have been obvious to one of ordinary skill in the art to use U-bolts to connect the modified carrying rack to

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the platforms of an ATV, as they re the conventional fasteners for such a purpose (Muzzi et al.; column 5, lines 18-35).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gray (US 2,508,757), Lile (US 3,893,568), Davy (US 5,649,656), Good (US 6,955,384), Armstrong (US 6,517,134), Goss et al. (US 5,354,164), and Fisher (US 2,785,816) all disclose similar inventions.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret L. Olson whose telephone number is (571) 272-9002. The examiner can normally be reached on MTWR, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mlo



NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER